

REMARKS/ARGUMENTS

Favorable reconsideration of the above-identified patent application, in light of the above amendments and the following remarks is respectfully requested. The presently pending claims are claims 1, 2, and 11-28.

The Examiner rejected claims 1, 2, 11-16 and 18-28 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,569,092 to Guichon et al. (Guichon). The Examiner stated that Guichon discloses a method of attaching an RFID to a live stock animal; obtaining livestock data via the tag; transmitting the data to a satellite, relaying the data to a data server and storing the data to the server.

In response, the Applicant respectfully disagrees. Guichon discloses a system which utilizes an RFID to track a live stock animal. Guichon discloses a data collection and transmission unit 32 associated with each livestock animal. The data collection and transmission unit includes a GPS receiver connected to an external antenna and an RFID engine having an antenna. The data collection and transmission unit stores information on the livestock animal. The location of the livestock animal is determined by the use of the GPS receiver. The satellite transmits information to the GPS receiver which is used by the GPS receiver to determine the GPS receiver position. No information is transmitted from the GPS receiver or the data collection and transmission unit *to the satellite*. Guichon utilizes an interrogator, which is located at ground level to read information from the data collection and transmission unit.

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The Applicant's invention, on the other hand, discloses a system and method of monitoring a livestock animal via a relay satellite. The RFID system disclosed in the Applicant's invention includes a satellite transmitter *transmitting specific data to the relay satellite*. As disclosed in the specification, the present invention is particularly useful for tracking animals on the open range. Guichon merely discloses a system which monitors animals within a specified area, such as a feedlot or plurality of adjacent feedlots. In particular, Guichon states that communication is via wireless RF communications (Col. 8, lines 56-61). In addition, oftentimes the interrogator of Guichon is not in a line of sight orientation with the data collection and transmission unit and therefore must store the information for transmittal at an additional cycle (Col. 8, lines 36-46). Guichon suffers from the disadvantage of utilizing a system which requires transmission at a close proximity with an interrogator. The Applicant's invention performs the novel function of relaying the information to a satellite rather than a nearby interrogator.

For prior art to anticipate under Section 102, every element of the claimed invention must be identically disclosed, either expressly or under principles of inherency, in a single reference. *Corning Glass Works v. Sumitomo Electric*, 9 U.S. P.Q. 2d 1962, 1965 (Fed. Circ. 1989). The exclusion of a claimed element, no matter how insubstantial or obvious, from a prior art reference is enough to negate anticipation. *Connell v. Sears, Roebuck & Co.*, 220 U.S.P.Q. 193, 198 (Fed. Circ. 1983). Guichon does not disclose *the transmission of data to a satellite*. In regards to inherency, inherency may be relied upon where, but only where, the consequence of following the reference disclosure always inherently produces or results in the claimed invention. *W.L. Gore Associates, Inc. v. Garlock, Inc.*, 220 U.S.P.Q. 303, 313 (Fed. Circ. 1983). If there is not a reasonable certainty that

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the claimed subject matter will necessarily result, the rejection fails. Guichon merely discloses an RFID engine which collects information and transfers the information via a nearby interrogator. *In re Brink*, 164 U.S.P.Q. 247 (CCPA 1970). Also, accidental results, not intended and not appreciated, do not constitute an anticipation. *Georgia-Pacific Corp. v. United States Plywood Corp.*, 118 U.S.P.Q. 122, 128 (2nd Circ. 1958). Therefore, the withdrawal of the rejection and the allowance of claims 1, 2, 11-16 and 18-28 is respectfully requested.

The Examiner rejected claim 17 under U.S. C. 103(a) as being unpatentable over Guichon and further in view of U.S. Patent No. 5,322,034 to Willham et al. (Willham). The Examiner stated that Guichon does not disclose that the RFID chip is implanted under the skin. However, the Examiner stated that Willham discloses an implantable chip. In addition, the Examiner stated that it would have been obvious to one having ordinary skill in the art at the time the invention was made to comprise the RFID of Guichon under the skin of the animal.

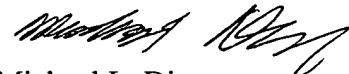
In response, the Applicant respectfully disagrees. As discussed above, Guichon does not teach or suggest the transmission of data to a satellite. The only mention of a satellite is for use with a GPS receiver, which only *receives* information from the satellite and definitely is not used as a relay satellite to relay information to another location. Neither Guichon nor Willham teach or suggest the use of a satellite to relay information. Therefore, the withdrawal of the rejection and the allowance of claim 17 is respectfully requested.

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CONCLUSION

For all the above reasons, the Applicant respectfully requests the reconsideration and withdrawal of the rejection and the allowance of claims 1, 2, 11-28.

Respectfully submitted,



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